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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058638
Party	Defendant Southern Land Company, LLC
Correspondence Address	James R. Michels Trust Tree Legal, P.C. 1321 Adams St. NASHVILLE, TN 37208 UNITED STATES randy@trust-tree.com
Submission	Opposition/Response to Motion
Filer's Name	James R. Michels
Filer's e-mail	randy@trust-tree.com
Signature	/jrm/
Date	02/23/2015
Attachments	Southern Land Company's Opposition to Petitioner's Combined Motion to Compel and Motion to Extend Discovery and Trial Dates.pdf(117064 bytes) Exhibit A to SLC's Opposition - Petitioner's Discovery Requests.pdf(115015 bytes) Exhibit B to SLC's Opposition - Email Exchange.pdf(121144 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
IN THE TRADEMARK TRIAL AND APPEAL BOARD**

LISA ALYN,)	
)	
Petitioner)	
)	
v.)	Cancellation No. 92058638
)	U.S. Registration Nos. 3,101,150
)	3,101,151
SOUTHERN LAND COMPANY, LLC)	
)	
Registrant)	
)	
_____)	

**SOUTHERN LAND COMPANY’S OPPOSITION TO PETITIONER’S
COMBINED MOTION TO COMPEL AND MOTION TO EXTEND DISCOVERY
AND TRIAL DATES**

Petitioner seeks to cancel Registrant’s WESTHAVEN trademark registrations yet she did not issue any deposition notices or schedule a document inspection before the fact discovery cut-off. She now seeks an extension of the deadlines in this proceeding so she can take this discovery. She provides no legitimate explanation for her failure to take depositions or inspect documents before the fact discovery deadline. Therefore, no good cause exists for her request of an extension of the deadlines in this proceeding. Moreover, Petitioner has failed to comply with the requirements for filing a motion to compel discovery since Registrant Southern Land Company, LLC (“Southern Land Company”) has not failed to attend a deposition, answer any question propounded in a deposition, or failed to permit inspection and copying of any document or thing. As such, Petitioner’s request to compel discovery should be denied as premature.

I. BACKGROUND

Petitioner seeks to cancel Southern Land Company's WESTHAVEN trademark registrations. She claims (incorrectly) that Southern Land Company committed fraud in obtaining the registrations. The Federal Circuit set a high bar for *inter partes* litigants claiming fraud in *In re Bose Corp.*, 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009). Fraud in procuring a trademark registration occurs when an applicant knowingly makes false, material representations of fact in connection with its application with intent to deceive the USPTO. *Id.*, 580 F.3d at 1245, 91 USPQ2d at 1941; *see also Swiss Watch Int'l Inc. v. Fed'n of the Swiss Watch Indus.*, 101 USPQ2d 1731, 1745 (TTAB 2012). A party alleging fraud in the procurement of a registration bears the heavy burden of proving fraud with clear and convincing evidence. *Bose*, 91 USPQ2d at 1243 (quoting *Smith Int'l, Inc. v. Olin Corp.*, 209 USPQ 1033, 1044 (TTAB 1981)). "There is no room for speculation, inference or surmise and, obviously, any doubt must be resolved against the charging party." *Smith Int'l*, 209 USPQ at 1044. For example, the Board will not find fraud if the evidence shows that a false statement was made with a reasonable and honest belief that it was true, rather than intent to mislead the USPTO into issuing a registration to which the applicant was not otherwise entitled. *Bose*, 91 USPQ2d at 1243; *see also Woodstock's Enters. Inc. (Cal.) v. Woodstock's Enters. Inc. (Or.)*, 43 USPQ2d 1440, 1443 (TTAB 1997), *aff'd (unpub'd)*, Appeal No. 97-1580 (Fed. Cir. Mar. 5, 1998).

Despite the significant evidentiary hurdle facing Petitioner, she has not issued a single deposition notice in this proceeding. In fact, she waited until the last minute to take any discovery at all. The original fact discovery deadline in this proceeding was October 14, 2014. Petitioner waited until August 22, 2014 to propound written discovery. *See*

Discovery Requests attached as Exhibit A hereto. She waited until October 1 to even broach the subject of depositions – **a mere 13 days before the discovery cut-off**. *See* email exchange attached as Exhibit B hereto. Southern Land Company provided Petitioner with possible deposition dates prior to the October 14 deadline. *Id.* After hearing no response, Southern Land Company filed a Motion to Compel Discovery, which lead to a suspension of proceedings.

Since Southern Land Company's Motion to Compel Discovery was filed at the end of fact discovery, Petitioner was on notice that there would be little time to take depositions once the proceedings resumed. Nevertheless, Petitioner made no effort to schedule any depositions. The Board held a telephone conference on the Motion to Compel Discovery on January 30, 2015. During the telephone conference, the Board advised the parties that the proceedings would be resuming. To the extent that Petitioner had any concerns about completing fact discovery within a short timeframe, she had an opportunity to do so during the telephone conference. She raised no concerns. She also did not contact Southern Land Company about scheduling depositions. Indeed, she made absolutely no effort to complete discovery before the reset fact discovery deadline of February 10, 2015. She issued no deposition notices. She did not schedule a document inspection.

On February 4, 2015, Petitioner asked Southern Land Company for a 30-day extension of the deadlines in this proceeding. *See* Exhibit 5 to Petitioner's Combined Motion to Compel. She provided no explanation for the extension request. *Id.* Southern Land Company would not agree to Petitioner's requested extension since she provided no

explanation for why fact discovery could not be completed by the February 10, 2015 deadline.

II. ARGUMENT

A. Petitioner's Extension Request Should Be Denied

A motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking in factual detail are not sufficient. TBMP § 509.01(a). Petitioner has not come forward with any facts to show that good cause exists for the requested extension.

Moreover, a party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. *Id.* Petitioner has failed to explain why she could not complete fact discovery by either the original October 14, 2014 deadline or the reset February 10, 2015 deadline. She had ample time to take fact discovery in this proceeding yet she never issued a single deposition notice nor did she schedule a document inspection. As such, Petitioner's extension request should be denied.

B. Petitioner's Motion to Compel Should Be Denied As Premature

As mentioned above, Petitioner has not issued any deposition notices in this proceeding. Nor has she scheduled a document inspection. As such, she cannot comply with the threshold requirements for filing a motion to compel discovery, which only provides recourse in the event that a party fails to attend a deposition, answer any question propounded in a deposition, or fails to permit inspection and copying of any document or thing. 37 CFR § 2.120(e). Petitioner has not taken any depositions in this proceeding nor has Southern Land Company refused to permit inspection and copying of

any document or thing. Therefore, Petitioner's motion to compel should be denied as premature.

III. CONCLUSION

For the foregoing reasons, the Board should deny Petitioner's motion.

Respectfully submitted,

s/James R. Michels

James R. Michels

TRUST TREE LEGAL, P.C.

1321 Adams Street

Nashville, TN 37208

Telephone: (615) 842-8408

Email: randy@trust-tree.com

Attorney for Registrant,

SOUTHERN LAND COMPANY, LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2015, a copy of Southern Land Company's Opposition to Petitioner's Combined Motion to Compel and Motion to Extend Discovery and Trial Dates was served on counsel for Petitioner via email to:

Gregory D. Latham
Intellectual Property Consulting, LLC
201 St. Charles, Suite 2500
New Orleans, LA 70170
E-mail: glatham@iplawconsulting.com

Brandon Frank
Pailet & Ostendorf, LLP
650 Poydras Street, Suite 1470
New Orleans, Louisiana 70130
E-mail: brandon@proentertainmentlaw.com

s/James R. Michels

Attorney for Registrant

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Lisa Alyn
Petitioner,

v.

Southern Land Company, LLC
Registrant.

Opposition No. 92058638

U.S. Trademark Reg. Nos. 3,101,151 and
3,101,151

PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Registrant, Southern Land Company, LLC, ("Registrant") is requested pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, to respond to the following requests for production of documents and things separately and fully, in writing, and under penalty of perjury, within thirty (30) days after service.

DEFINITIONS AND INSTRUCTIONS

1. "Document" means the original and all non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether in final or draft, including but not limited to all materials that constitute "writings" or "recordings" or "photographs" within the broadest meaning of Rule 34 of the Federal Rules of Civil Procedure.
2. "Communication" means any contact whether oral, documentary or electronically, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including without limitation, any note, memorandum or other record.

3. “Southern Land Company”, “Southern Land”, “Registrant”, “You”, or “Your” means Southern Land Company, LLC, their agents, servants, employees, investigators, attorneys and all other persons or entities representing either or acting on their behalf.

4. “Lisa Alyn”, “Ms. Alyn”, or “Petitioner” means Lisa Alyn, her agents, servants, employees, investigators, attorneys and all other persons or entities representing either her or acting on her behalf.

5. “WESTHAVEN Marks” means the marks for WESTHAVEN, U.S. Trademark Registration No. 3,101,151 and W WESTHAVEN and Design, U.S. Trademark Registration No. 3,101,150 granted to Respondent, Southern Land Company, LLC and are the subject of this petition of cancellation.

6. In responding to these requests, You are required to provide all Documents that are available to You or within Your control, including Documents in the possession of Your attorneys, employees, agents, representatives and any other person acting on Your behalf.

7. If You object to any of these requests, You must state the grounds for any objection and respond to the remainder of the request.

8. If You object to the production of any document on the grounds that it is protected from disclosure by the attorney-client privilege, work-product doctrine, or any other privilege, You are requested to identify each document for which the privilege is claimed and the following information: (a) name of the writer, sender, or initiator of the document; (b) name of the recipient(s), addressee(s), or any party to whom a copy of the document was sent; (c) the date of the document; and (d) a statement as to the basis for the privilege.

DISCOVERY

Request for Production No. 1:

Produce any and all Documents that You may use to support any defense in this cancellation proceeding.

Request for Production No. 2:

Produce any and all Documents that You may use or rely on to support Your position that the WESTHAVEN Marks are not geographically descriptive with the meaning of the U.S. Trademark Act.

Request for Production No. 3:

Produce any and all Documents associated with and evidencing Your creation and development of the WESTHAVEN Marks. Your answer should include but is not limited to interoffice communications and communications with outside consultants, advisors or other professionals providing services such as marketing surveys, legal opinions and expert opinions.

Request for Production No. 4:

Produce any and all Documents evidencing Your knowledge of Westhaven, Connecticut and Your use of that knowledge in Your creation and development of the WESTHAVEN Marks.

Request for Production No. 5:

Produce any and all Documents that evidence Your decision to use the WESTHAVEN Marks including but not limited to interoffice communications and communications with outside

consultants, advisors or other professionals providing services such as marketing services, legal opinions and expert opinions.

Request for Production No. 6:

Produce any and all documents related to any market research studies or surveys You may have conducted or You authorized to be conducted regarding the term WESTHAVEN as a potential mark for Your use.

Request for Production No. 7:

Produce any and all Documents that evidence Your first use of the WESTHAVEN Marks.

Request for Production No. 8:

Produce any and all Documents that evidence Your decision to apply for U.S. trademark registrations for the WESTHAVEN Marks.

Request for Production No. 9:

Produce any and all Documents surrounding the United States Trademark application filings of the WESTHAVEN Marks including but not limited to any and all communications between You and the U.S. Patent and Trademark Office and its examiners about the geographical significance of the WESTHAVEN Marks.

Request for Production No. 10:

On January 5, 2004, two Office Actions were issued by the examiner from the U.S. Patent and Trademark Office one for each of Your U.S. trademark application serial nos. 76/524,401 and 76/524,137 with both stating “The applicant must indicate whether ‘WESTHAVEN’ has any significance in the relevant trade, or any geographical significance. 37 C.F.R. §2.61(b).”

On July 6, 2004, You submitted the following response to both Office Actions: “Applicant submits that ‘WESTHAVEN’ does not have any significance in the relevant trade, or any geographical significance.”

Produce any and all Documents that evidence Your decision to submit those July 6, 2004 responses to the January 5, 2004 Office Actions including but not limited to all interoffice communications and communications with outside individuals or entities that provided advice or guidance regarding the decision.

Request for Production No. 11:

Produce any and all documents relating to legal or non-legal opinions regarding the U.S. trademark applications and subsequent communications and proceedings leading up to the approval of the U.S. trademark registrations of the WESTHAVEN Marks.

Request for Production No. 12:

Produce any and all documents relating to any other marks You considered using instead of the WESTHAVEN Marks.

Request for Production No. 13:

Produce Documents evidencing Your annual expenditures on marketing, branding, advertising, and promoting the WESTHAVEN Marks from January 1, 2002 through July 31, 2014.

Request for Production No. 14:

Produce illustrative samples of Your advertising using the WESTHAVEN Marks services since January 1, 2002.

Request for Production No. 15:

Produce any Documents evidencing all Your sales using the WESTHAVEN Marks to offer your land development and real estate brokerage services since January 1, 2002.

Request for Production No. 16:

Produce any and all Documents including communications and correspondence that evidence the authorized use of the WESTHAVEN Marks by third-parties other than You.

Request for Production No. 17:

Produce any and all agreements between You and any third-parties that you authorized to use or license the WESTHAVEN Marks, in any way, including but not limited to advertising, marketing, sublicensing, or promotionally.

Request for Production No. 18:

Produce any and all Documents including communications and correspondence that evidence Your knowledge of unauthorized use of the WESTHAVEN Marks by third-parties.

Request for Production No. 19:

Produce any and all Documents that evidence Your demands to stop any third-party's unauthorized use of the WESTHAVEN Marks.

Request for Production No. 20:

Produce any and all Documents that evidence Your protection of the WESTHAVEN Marks from unauthorized third-party users.

Request for Production No. 21:

Produce any and all Documents that evidence a challenge to the WESTHAVEN Marks or any litigation against the validity of the WESTHAVEN Marks by a third-party.

Request for Production No. 22:

Produce any and all Documents that You submitted to or filed with the City of Franklin or the City of Franklin Planning Commission related to the development of multi-residential projects, neighborhoods, communities, or homes including but not limited to site plans, permit applications, and zoning and zone change applications from January 1, 2001 through July 31, 2004.

Request for Production No. 23:

Produce any and all Documents that You submitted to or filed with the City of Franklin or the City of Franklin Planning Commission related to the development of commercial shopping centers or malls including but not limited to site plans, permit applications, and zoning and zone change applications from January 1, 2001 through July 31, 2004.

Request for Production No. 24:

Produce a document listing all of Your active and inactive employees and their contact information of record that worked for You from January 1, 2002 through present including any executives, directors, officers, managers or members of the limited liability company.

Respectfully submitted,

Dated: August 22, 2014

/s/ Greg Latham
Gregory D. Latham
Intellectual Property Consulting, LLC
201 St. Charles, Suite 2500
New Orleans, LA 70170
Telephone: (504) 322-7166
Facsimile: (504) 322-7184
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- and -

Brandon J. Frank
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650 Poydras Street, Suite 1470
New Orleans, Louisiana 70130
Telephone: 504.299.3415
Fax: 504.527.5111
E-mail: brandon@proentertainmentlaw.com

Attorneys for Petitioner, Lisa Alyn

CERTIFICATE OF SERVICE

I certify that on this 22nd day of August, a true copy of the above Petitioner's First Set of Requests for Production were served via e-mail and via First Class Mail on Respondent's counsel:

James R. Michels
Stites & Harbison PLLC
401 Commerce St., Suite 1800
Nashville, TN 37219
E-mail: randy.michels@stites.com

Mari-Elise Taube
Stites & Harbison PLLC
1199 North Fairfax St., Suite 900
Alexandria, VA 22314
E-mail: mtaube@stites.com

By: Greg Latham
Gregory D. Latham

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Lisa Alyn
Petitioner,

v.

Southern Land Company, LLC
Registrant.

Opposition No. 92058638

U.S. Trademark Reg. Nos. 3,101,151 and
3,101,151

PETITIONER’S FIRST SET OF INTERROGATORIES

Registrant, Southern Land Company, LLC, (“Registrant”) is requested pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, to respond to the following requests for production of documents and things separately and fully, in writing, and under penalty of perjury, within thirty (30) days after service.

DEFINITIONS AND INSTRUCTIONS

1. “Document” means the original and all non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether in final or draft, including but not limited to all materials that constitute “writings” or “recordings” or “photographs” within the broadest meaning of Rule 34 of the Federal Rules of Civil Procedure.

2. “Communication” means any contact whether oral, documentary or electronically, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including without limitation, any note, memorandum or other record.

3. “Southern Land Company”, “Southern Land”, “Registrant”, “You”, or “Your” means Southern Land Company, LLC, their agents, servants, employees, investigators, attorneys and all other persons or entities representing either or acting on their behalf.

4. “Lisa Alyn”, “Ms. Alyn”, or “Petitioner” means Lisa Alyn, her agents, servants, employees, investigators, attorneys and all other persons or entities representing either her or acting on her behalf.

5. “WESTHAVEN Marks” means the marks for WESTHAVEN, U.S. Trademark Registration No. 3,101,151 and W WESTHAVEN and Design, U.S. Trademark Registration No. 3,101,150 granted to Respondent, Southern Land Company, LLC and are the subject of this petition of cancellation.

6. In responding to these requests, You are required to provide all Documents that are available to You or within Your control, including Documents in the possession of Your attorneys, employees, agents, representatives and any other person acting on Your behalf.

7. If You object to any of these requests, You must state the grounds for any objection and respond to the remainder of the request.

8. If You object to the production of any document on the grounds that it is protected from disclosure by the attorney-client privilege, work-product doctrine, or any other privilege, You are requested to identify each document for which the privilege is claimed and the following information: (a) name of the writer, sender, or initiator of the document; (b) name of the recipient(s), addressee(s), or any party to whom a copy of the document was sent; (c) the date of the document; and (d) a statement as to the basis for the privilege.

DISCOVERY

Interrogatory No. 1:

State the name, address and telephone number of each individual likely to have discoverable information that You may use to support any defense in this litigation.

Interrogatory No. 2:

Identify each expert by name and address that You intend to use in support of any defense in this litigation.

Interrogatory No. 3:

Identify every claim, demand or lawsuit which has alleged in any fashion that Your rights in any trademark are not valid and enforceable or in which You have alleged in any fashion that another's trademark(s) is(are) not valid and enforceable.

Interrogatory No. 4:

List by date and registration number any Trademark Registration issued to You by the United States Patent and Trademark Office.

Interrogatory No. 5:

List by application date and serial number any trademark applications You have submitted and been refused a trademark by the United States Patent and Trademark Office.

Interrogatory No. 6:

Identify each and every person or source including employees who participated in the creation and development of the WESTHAVEN Marks.

Interrogatory No. 7:

Describe in detail the process used by You and the individuals identified in Interrogatory No. 6 to create and develop the WESTHAVEN Marks.

Interrogatory No. 8:

Identify each and every person including but not limited to employees and outside persons and entities who participated in the decision for You to adopt the WESTHAVEN Marks.

Interrogatory No. 9:

Identify any employees, individuals or entities that may have worked on any market research studies or surveys You may have conducted or You authorized to be conducted regarding the term WESTHAVEN.

Interrogatory No. 10:

Identify any individuals or entities that participated in Your decision to apply for U.S. trademark registrations for the WESTHAVEN Marks.

Interrogatory No. 11:

State the reasons for Your decision to adopt and use the WESTHAVEN Marks and to apply for U.S. trademark registrations of the WESTHAVEN Marks.

Interrogatory No. 12:

Provide a description of the process used to determine whether “WESTHAVEN” was available for U.S. trademark registration by You and would not conflict with any requirements for registration such as prior used or registered mark or name or geographical significance.

Interrogatory No. 13:

Identify the three persons who have the most knowledge about the adoption WESTHAVEN as Your mark and the decision to apply for a trademark registration.

Interrogatory No. 14:

Identify any individuals or entities that participated in the United States Trademark application filings and subsequent communications with U.S. Patent and Trademark Office’s examiners and employees regarding the WESTHAVEN Marks under U.S. trademark application serial nos. 76/524,401 and 76/524,137.

Interrogatory No. 15:

On January 5, 2004, two Office Actions were issued by the examiner from the U.S. Patent and Trademark Office one for each of Your U.S. trademark application serial nos. 76/524,401 and 76/524,137 with both stating “The applicant must indicate whether

‘WESTHAVEN’ has any significance in the relevant trade, or any geographical significance. 37
C.F.R. §2.61(b).”

On July 6, 2004, You submitted the following response to both Office Actions:

“Applicant submits that ‘WESTHAVEN’ does not have any significance in the relevant trade, or any geographical significance.”

Identify any and all individuals, whether employees or not, that participated in the decision to submit those July 6, 2004 responses to the Office Actions dated January 5, 2004.

Interrogatory No 16:

Explain the basis for and identify all facts which evidence, support, refer or relate to your contention that the term WESTHAVEN has no geographical significance.

Interrogatory No. 17:

Explain the basis for and identify all facts which evidence, support, refer or relate to your contention that the term WESTHAVEN was coined by You.

Interrogatory No. 18:

State whether You have requested, received, or have knowledge of any opinions, legal or otherwise, of any type regarding the right to register the WESTHAVEN Marks.

Interrogatory No. 19:

If you stated anything but “No” in Interrogatory No 18, then, identify each person who made the request(s), each person who fulfilled the request(s), and identify any documents relating to the opinion(s).

Interrogatory No. 20:

Identify any individuals or entities authorized by You to use the WESTHAVEN Marks.

Interrogatory No. 21:

For each individual or entity identified in Interrogatory 20, provide contact information, including an address and phone number for each and the date You first authorized the use of the WESTHAVEN Marks.

Interrogatory No. 22:

Identify any individuals or entities that are using the WESTHAVEN Marks without Your authorization.

Interrogatory No. 23:

Identify any individuals or entities that you have contacted about using the WESTHAVEN Marks without Your authorization.

Interrogatory No. 24:

Identify all persons who participated in any way in the preparation of these interrogatories.

Respectfully submitted,

Dated: August 22, 2014

/s/ Greg Latham
Gregory D. Latham
Intellectual Property Consulting, LLC
201 St. Charles, Suite 2500
New Orleans, LA 70170
Telephone: (504) 322-7166
Facsimile: (504) 322-7184
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- and -

Brandon J. Frank
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650 Poydras Street, Suite 1470
New Orleans, Louisiana 70130
Telephone: 504.299.3415
Fax: 504.527.5111
E-mail: brandon@proentertainmentlaw.com.

Attorneys for Petitioner, Lisa Alyn

CERTIFICATE OF SERVICE

I certify that on this 22nd day of August, a true copy of the above Petitioner's First Set of Interrogatories were served via e-mail and via First Class Mail on Respondent's counsel:

James R. Michels
Stites & Harbison PLLC
401 Commerce St., Suite 1800
Nashville, TN 37219
E-mail: randy.michels@stites.com

Mari-Elise Taube
Stites & Harbison PLLC
1199 North Fairfax St., Suite 900
Alexandria, VA 22314
E-mail: mtaube@stites.com

By: Greg Latham
Gregory D. Latham

EXHIBIT B

Greg Latham

From: Michels, James R. [randy.michels@stites.com]
Sent: Friday, October 10, 2014 2:40 PM
To: Greg Latham
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

We're happy to work with you to find dates once the Board rules on the motion to compel.

From: Greg Latham [mailto:glatham@iplawconsulting.com]
Sent: Thursday, October 09, 2014 1:37 PM
To: Michels, James R.
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Randy -- the Board will likely suspend the proceedings due to the filing of your motion to compel. But, eventually, we will have to schedule these depositions and Southern Land will have to allow us the opportunity to inspect the documents it has identified in its discovery requests. I suggest that we go ahead and get those events calendared so when the compel motion is resolved, we are ready to move forward.

Please provide us with two consecutive days on which we can inspect documents the first day and depose Ms. Bennett and Mr. Downey the next day. I suggest we look at dates in mid-November.

Thanks.

Greg

From: Michels, James R. [mailto:randy.michels@stites.com]
Sent: Tuesday, October 07, 2014 6:04 PM
To: Greg Latham
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

The Board will be suspending the proceeding due to the filing of our motion to compel.

From: Greg Latham [mailto:glatham@iplawconsulting.com]
Sent: Tuesday, October 07, 2014 4:38 AM
To: Michels, James R.
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Randy -- because Brandon and I will have to travel to Nashville for these depositions, we'd like to schedule them for the same day. Please provide us with some dates that Ms. Bennett and Mr. Downey are both available.

Thanks.

Greg Latham
Intellectual Property Consulting
glatham@iplawconsulting.com

Phone: 504.322.7166

Fax: 504.322.7184

From: Michels, James R. [<mailto:randy.michels@stites.com>]
Sent: Friday, October 03, 2014 3:17 PM
To: Greg Latham
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Mary Lee Bennett is available October 6-8. She would likely be the 30(b)(6) representative as well.

Tim Downey has availability on the afternoon of October 13.

From: Michels, James R.
Sent: Friday, October 03, 2014 9:02 AM
To: Greg Latham
Cc: brandon@proentertainmentlaw.com; Taube, Mari-Elise
Subject: Re: Lisa Alyn v. Southern Land Company - Discovery Responses

Yes, I will get back to you later today.

James ("Randy") Michels
Stites & Harbison, PLLC
[401 Commerce Street, Suite 800](#)
[Nashville, Tennessee 37219](#)
Direct Dial: [\(615\) 782-2234](tel:(615)782-2234)
Direct Fax: [\(615\) 742-7215](tel:(615)742-7215)
Email: randy.michels@stites.com
Blog: www.trademarkologist.com

On Oct 3, 2014, at 8:53 AM, "Greg Latham" <glatham@iplawconsulting.com> wrote:

Randy -- can we hear from you today regarding dates for inspection of documents and depositions?
Thanks.

Greg Latham
Intellectual Property Consulting
glatham@iplawconsulting.com
Phone: 504.322.7166
Fax: 504.322.7184

From: Greg Latham [<mailto:glatham@iplawconsulting.com>]
Sent: Wednesday, October 01, 2014 3:50 PM
To: 'Michels, James R.'; 'brandon@proentertainmentlaw.com'
Cc: 'Taube, Mari-Elise'
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Randy -- we'll get a formal notice out to you very soon, but in the meantime, here are the 30(b)(6) topics:

- Southern Land's contention that the WESTHAVEN term is not geographically descriptive;
- Southern Land's creation and development of the WESTHAVEN designation;
- Southern Land's consideration of other designations which were considered instead of the term WESTHAVEN;
- Southern Land's knowledge of other geographical locations that use the WESTHAVEN designation;
- Southern Land's first use of the WESTHAVEN designation;
- Southern Land's prosecution of its application to register the term WESTHAVEN with the USPTO;
- Southern Land's marketing, advertising or promotion of its services offered under the designation WESTHAVEN;
- Southern Land's licensing (or authorization granted to third parties) of the WESTHAVEN designation;
- Southern Land's efforts to police and enforce its purported rights in the WESTHAVEN designation;
- Southern Land's knowledge of third party use of the term WESTHAVEN;
- Third party challenges to the validity of the purported WESTHAVEN trademark;
- The subject matter for each witness and category of documents identified in Southern Land's Rule 26 Initial Disclosures

Thanks

Greg

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From: Michels, James R. [<mailto:randy.michels@stites.com>]
Sent: Wednesday, October 01, 2014 3:26 PM
To: Greg Latham; brandon@proentertainmentlaw.com
Cc: Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Please send me the 30(b)(6) topics so I can figure out who the appropriate representatives will be.

From: Greg Latham [<mailto:glatham@iplawconsulting.com>]
Sent: Wednesday, October 01, 2014 3:12 PM
To: Michels, James R.; brandon@proentertainmentlaw.com
Cc: Taube, Mari-Elise
Subject: RE: Lisa Alyn v. Southern Land Company - Discovery Responses

Randy -- please provide us with convenient dates/times to inspect the documents identified in Southern Land's discovery responses. We presume that inspection will occur in Westhaven or Nashville. Brandon and/or I will be traveling for the document inspection. On the same trip, we would like to take the following depositions:

- 30(b)(6) deposition of Southern Land;

- deposition of Mary Lee Bennett
- deposition of Tim Downey

The depositions should be scheduled for the day following the document inspection. If we can start the depositions early, we should be able to conclude all three on the same day.

Please let us know of a convenient date(s) to scheduled these discovery matters.

Greg Latham
Intellectual Property Consulting
glatham@iplawconsulting.com
Phone: 504.322.7166
Fax: 504.322.7184

From: Michels, James R. [<mailto:randy.michels@stites.com>]
Sent: Monday, September 22, 2014 5:41 PM
To: Greg Latham; brandon@proentertainmentlaw.com
Cc: Taube, Mari-Elise
Subject: Lisa Alyn v. Southern Land Company - Discovery Responses

Attached you will find copies of Southern Land Company's discovery responses. Hard copies will follow via regular mail.

James ("Randy") Michels

Member
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